

ATTACHMENT 12

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA
3

4 IN RE: PROCESSED EGG PRODUCTS: MDL NO. 2002
5 ANTITRUST LITIGATION 08-MDL-02002
6

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8 PHILADELPHIA, PA
9 - - - - -
10 NOVEMBER 12, 2019
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12 BEFORE: THE HONORABLE GENE E.K. PRATTER, J.
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15 TRANSCRIPT OF TRIAL PROCEEDINGS
16 DAY 7
17 - - - - -
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(Transcript produced by mechanical shorthand via C.A.T.)

1 courtroom more productive.

2 THE DEPUTY CLERK: Yes.

3 THE COURT: I'll be back.

4 MR. PATTON: Thank you, Your Honor.

5 (After recess:)

6 THE DEPUTY CLERK: All rise.

7 THE COURT: All right, we can bring the jury back.

8 THE DEPUTY CLERK: All rise.

9 (Jury in.)

10 THE COURT: Okay, you all may take your seats.

11 Ladies and gentlemen, as I told you, it's very difficult for

12 me to guarantee some timing things, but we were working on

13 making sure that this next segment of the trial is done in an

14 efficient and smooth way, so that was why I intruded upon the

15 time that I gave you and here we are.

16 So, Plaintiffs, you may proceed.

17 MR. PATTON: Your Honor, at this time, we call

18 Mr. James Carlson to the stand.

19 THE COURT: Yes.

20 THE DEPUTY CLERK: Please remain standing and raise

21 your right hand.

22 JAMES CARLSON,

23 Called as a witness herein by the Plaintiffs, having been

24 first duly sworn, was examined and testified as follows:

25 THE DEPUTY CLERK: Would you please have a seat.

1 livestock facility or something like that, I'd work there for

2 about a month wearing a hidden camera to document what I saw

3 while I was performing my day-to-day duties. And then turning

4 that information over, along with my notes, over to the Humane

5 Society or whoever I would be working with so they could use

6 that for campaigns, litigation, lobbying activities.

7 Q. Did you receive any training before becoming an

8 undercover investigator?

9 A. I did.

10 Q. Please describe your training.

11 A. I worked with a veteran investigator mainly on how to

12 operate the hidden camera equipment as well as just learning a

13 little bit about the role and how to, I guess, appropriately

14 document activities and build a case.

15 Q. Did you receive any training on how to take accurate

16 videos and photographs?

17 A. Yes. So a lot of the training involved how to use the

18 camera to take -- capture everything that you need in the

19 frame.

20 Q. And that's true for both video cameras and photo still

21 cameras?

22 A. My training pertained to using the hidden camera

23 equipment, which is a little bit particular. I already knew

24 how to use a regular point-and-click digital camera.

25 Q. Please describe how you became engaged by the Humane

1 Please state your full name and spell your last name for the

2 record.

3 THE WITNESS: My name is James Carlson,

4 C-A-R-L-S-O-N.

5 THE COURT: Good afternoon, Mr. Carlson. How are

6 you doing?

7 THE WITNESS: Good afternoon, Your Honor, I'm well,

8 thank you. How are you?

9 THE COURT: So far I'm okay. Thanks for asking.

10 Are you comfortable?

11 THE WITNESS: I'm comfortable, thanks.

12 THE COURT: Excellent.

13 You may proceed.

14 DIRECT EXAMINATION

15 BY MR. PATTON:

16 Q. Mr. Carlson, thank you for appearing here today.

17 In February of 2010, what were you doing for work?

18 A. In February of 2010, I was employed by Rose Acre Farms as

19 a barn technician and also working as an animal cruelty

20 investigator for the Humane Society of the United States.

21 Q. What is involved to be an animal cruelty investigator?

22 A. Typically what the work involved was going undercover to

23 document the way animals are treated in facilities where the

24 public otherwise might not have access to that information.

25 So usually I would go and get an entry level job at a large

1 Society of the United States to investigate Rose Acre Farms?

2 A. I was originally working as a research analyst for an

3 international business intelligence firm, and as part of their

4 pro bono committee, I reached out to different advocacy groups

5 to see if they might need help with public records research.

6 One of those groups was an animal protection group called

7 Mercy for Animals, who then offered for me to come on as an

8 investigator for them. I did that for a little less than a

9 year, and then moved on to work for the Humane Society.

10 Q. So, in early winter of 2010, were you engaged by the

11 Humane Society to investigate Rose Acre Farms?

12 A. Ostensibly, I was engaged by the Humane Society to

13 investigate, I think, the egg industry, more largely, and

14 particularly their use of and practice of using battery cages

15 to confine animals.

16 Q. How did you go about deciding to investigate Rose Acre

17 Farms?

18 A. I applied for a number of the larger egg producers in

19 Iowa. Picked Iowa because it's the biggest egg-producing

20 state, and I applied to two different facilities, Rose Acre

21 was the first to hire me.

22 Q. And what were you engaged by the Humane Society to

23 actually do at Rose Acre Farms?

24 A. Um, my job, as I understood it, was to simply do the

25 duties that were assigned to me by Rose Acre, my employer, as

1 well as I could, and then while doing that, use this hidden
 2 camera to document what I was seeing. Certainly there was an
 3 interest in documenting the conditions of battery cages and
 4 the welfare of hens who were kept in these types of cages.
 5 Q. So the Humane Society engaged you to go undercover?
 6 A. Yes.
 7 Q. And your job, your role in this was to get a job at Rose
 8 Acre Farms' facilities in Iowa?
 9 A. Yes. To get a job at an egg facility in Iowa, including
 10 Rose Acre.
 11 Q. And was part of your responsibilities to video and
 12 photograph those Rose Acre facilities at which you worked?
 13 A. That's correct.
 14 Q. When did you go to Rose Acre Farms in Iowa?
 15 A. I think I originally went there in early February
 16 of 2010.
 17 Q. And did you have to apply for a job?
 18 A. I did.
 19 Q. Were you hired?
 20 A. I was.
 21 Q. What were you hired to do?
 22 A. Um, my -- I forget what my title was. I believe it was
 23 barn technician, but my basic responsibility was -- I was part
 24 of bird moving crew and so our job involved basically there
 25 was an area, several barn facilities for pullets, which are

1 investigators like me. So I figured if I answered yes, I
 2 would never get the job and I would never be able to conduct
 3 my investigation.
 4 Q. By answering no, were you doing anything illegal, as you
 5 understood it?
 6 A. No.
 7 Q. When did you start at Rose Acre Farms?
 8 A. I started sometime in early February, I think in the
 9 first couple of days of February.
 10 Q. And how long did you work there for?
 11 A. A little over three weeks, I believe.
 12 Q. So that would have been between early February and the
 13 third week of February?
 14 A. That's right.
 15 Q. So which Rose Acre facilities did you work at?
 16 A. My crew worked at three different facilities. The main
 17 one was called Winterset, which I think they're named after
 18 the towns they're in. Another was Stuart and the other was
 19 Guthrie.
 20 Q. And how far away were these facilities from each other?
 21 A. Um, two of them were within ten minutes of one another.
 22 I believe one of them was a little bit farther away, maybe 15
 23 or 20 minutes.
 24 Q. And you worked at all three intermittently during your
 25 two weeks?

1 younger chickens. Those would then have to get loaded into a
 2 transport equipment and then moved to other barns called layer
 3 barns where, when they're older, when they're more than a few
 4 weeks old and begin laying eggs, they would be kept in those
 5 facilities. So I'd transfer them from the pullet barn to the
 6 layer barn. And then when they reached about a year and a
 7 half or two years old and their egg production started to
 8 decrease a little bit, we were responsible for depopulation,
 9 which meant going through a barn, removing all the birds and
 10 putting them in a mobile gas container where we would use CO₂
 11 to asphyxiate them or suffocate them to death.
 12 Q. Before you started at Rose Acre, did you have to fill out
 13 an application?
 14 A. I did.
 15 Q. And did the application ask you whether you were a member
 16 or associated with any organization that could be considered
 17 an animal rights group?
 18 A. It did.
 19 Q. And what did you put on the application?
 20 A. I answered no.
 21 Q. Why did you answer no?
 22 A. I saw that document. First off, I had done my research
 23 beforehand and I knew that it was within my legal rights to
 24 answer that question however I wanted to, and I saw the
 25 question as trying to screen out potential undercover

1 A. Yes. We went wherever birds needed to be moved, so
 2 wherever they were aging out from one barn, we would go there.
 3 Q. Were you able to film and take photos of the conditions
 4 within the Rose Acre Farms?
 5 A. Yes.
 6 Q. What type of facilities did you film in photo?
 7 A. In the pullet barns and the layer barns.
 8 Q. Were you able to take photos and video of the conditions
 9 within those houses?
 10 A. I was.
 11 Q. Were you able to film the handling and transportation --
 12 A. I was.
 13 Q. -- of the hens within those facilities?
 14 A. Yes.
 15 Q. Were you able to take photos of the hens in cages?
 16 A. Yes.
 17 Q. Were you able to film the removal of hens from cages for
 18 slaughter?
 19 A. Yes.
 20 Q. And were you also able to film manure pits below the
 21 houses?
 22 A. Yes.
 23 Q. Manure, do you know what the cause of ammonia levels are,
 24 where those are largely derived?
 25 A. In -- specifically in poultry barns?

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1 Q. Yes.

2 A. So primarily from the manure. I think poultry manure is

3 very rich in ammonia.

4 Q. What type of video camera did you use?

5 A. I primarily used a hidden camera that was concealed in a

6 button. So we call it a buttonhole camera, just sat in the

7 middle of my shirt. It was designed by a specialist who

8 designs this equipment for everything from reality TV shows to

9 military applications.

10 Q. So you anticipated my next question. Where did you wear

11 the camera?

12 A. I wore it on my chest in a button.

13 Q. Now, what steps did you take to make sure the video

14 camera was operational each day?

15 A. Every morning when I would get dressed, I would give the

16 camera a test run to make sure it was working. Before I would

17 go to work, I would take an international establishing shot of

18 me parked in the parking lot holding the day's newspaper and

19 then walking out of my car into the parking lot where you

20 could see the Rose Acre branded trucks and facilities.

21 Q. Was the camera always in your possession while you were

22 working at the Rose Acre facilities?

23 A. Certainly, yes.

24 Q. How did you take photos?

25 A. The way to turn the camera on was to press a button that

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1 was in my pocket and that would turn it on, and you'd hear a

2 vibration to know it was running and then three vibrations

3 when you turn it off.

4 Q. So that's how the video would work?

5 A. Yes.

6 Q. And I was going to ask you about photographs.

7 A. Yes.

8 Q. How did you do that?

9 A. To take photos I would just use a regular digital camera.

10 Q. What type of camera?

11 A. I believe it was a Canon camera.

12 Q. And how would you take the photo?

13 A. You know, pull the camera out of my pocket, point and

14 shoot.

15 Q. And how much footage would you shoot, video footage would

16 you shoot on an average day?

17 A. The maximum recording capacity was two hours. It was

18 rare I came to that. It usually would be between 20 minutes

19 and an hour or more. It's hard to guess what the average was.

20 Q. When you finished taking video footage for a day, would

21 you preserve the footage on the thumb drive?

22 A. At the end of the day, I would load it onto my computer

23 along with contemporaneous notes, log notes and then

24 ultimately preserve that on a thumb drive, yes.

25 Q. And what would you do with the thumb drive, or after you

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1 downloaded the photos and the videos on the thumb drive, what

2 would you do with them?

3 A. Those would be sent to the director of investigations at

4 the Humane Society.

5 Q. And to the best of your knowledge, did the Humane Society

6 preserve those videos and photographs?

7 A. Yes. That was at the core of their job.

8 Q. Have you reviewed the video footage and the photos before

9 testifying here today?

10 A. Yes.

11 Q. And are the video footage and the photos that we're about

12 to see photos and footage that you took at the Rose Acre

13 facilities in Iowa?

14 A. Yes.

15 Q. And you took those in February of 2010?

16 A. That's correct.

17 Q. Are the videos accurate footage of what you filmed at

18 Rose Acre's facilities?

19 A. Yes.

20 Q. Are the photos accurate photos of what you took while

21 working at the Rose Acre facilities?

22 A. Yes.

23 MR. PATTON: Your Honor, at this time, we would

24 offer Exhibit 719, which is a video that Mr. Carlson took

25 while working at the Rose Acre facility.

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1 THE COURT: And that has been shown to the

2 Defendants?

3 MR. PATTON: Right.

4 THE COURT: So the objections that have been made

5 have been ruled on and you may proceed with the result.

6 MR. PATTON: May I also approach, Your Honor? We

7 have it on a thumb drive for the Court.

8 THE COURT: Oh, good. What's the number, 7...

9 MR. PATTON: 719, Your Honor.

10 BY MR. PATTON:

11 Q. Before we start the video, just let's talk about some of

12 the sequences.

13 A. Sure.

14 Q. Do they start on or around a pullet house, to your

15 understanding?

16 A. I believe the video starts with footage from a pullet

17 house.

18 Q. Is that where you initially were working?

19 A. Um, you know, every day was a bit different, but I did

20 work very much at pullet houses my first week, as I recall.

21 Q. And then what we see, pullets being put into transport

22 cages?

23 A. That is on the video as well, yes.

24 Q. And you did that as well when you were working at Rose

25 Acres?

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1 A. That's right.

2 Q. And then the pullets, after they were put in cages, would

3 be transferred on trucks to facilities?

4 A. That's correct.

5 Q. How long -- if you know off the top of your head, how

6 long would the truck drive be to the facility?

7 A. Typically, my understanding is that typically those

8 trucks would be driven among the three facilities, as I

9 mentioned, so usually not more than a 15-minute drive, I would

10 expect, although the hens might end up staying on those

11 transferring stations for a little bit longer.

12 Q. Okay. Why don't we watch the video.

13 (Video clip started.)

14 MR. PATTON: Can you stop it there for a second?

15 (Video clip paused.)

16 BY MR. PATTON:

17 Q. So we just -- correct me if I'm wrong, but we saw the

18 pullets being put in the cages. Are what we seeing now the

19 pullets after they've been transported being put in the layer

20 house?

21 A. That's what appears to be happening in this sequence

22 right here, yes. They've been moved to a layer house and now

23 are being loaded into the layer cages.

24 (Video clip resumed.)

25 MR. PATTON: Stop it there.

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1 throw them in this mobile container unit that's in the middle

2 of the aisle, and once it has about 20 to 30 chickens in it,

3 they'd turn on the CO₂ for a few seconds, which would either

4 stun or kill the birds.

5 And then once that container is filled with, I

6 think, about 200 birds, it would get moved to the end of the

7 hall where there would be a truck with an eviscerator in there

8 so the chickens would be dumped into there and turned into a

9 slurry.

10 Q. Let's continue.

11 (Video clip resumed.)

12 MR. PATTON: So let's stop it there for a second.

13 (Video clip paused.)

14 BY MR. PATTON:

15 Q. What did you take a video of here?

16 A. This right here is the manure pits underneath one of the

17 barns. So basically the cages were stacked in about four

18 high. The chickens' manure would come through and fall

19 through the cages and go into the manure pit underneath.

20 Q. Do you know what -- at which Rose Acre facility took this

21 video?

22 A. I honestly couldn't tell. They're all fairly similar

23 looking.

24 Q. Let's continue with the video.

25 (Video clip resumed.)

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1 (Video clip paused.)

2 BY MR. PATTON:

3 Q. What does this depict?

4 A. This depicts basically daily life for Leg hens at Rose

5 Acre for the vast majority of their lives. They spend it in

6 these battery cages where they'll be anywhere from 6 to 10

7 birds in a cage about the size of a dresser drawer, and they

8 basically stay there indefinitely in a barn that holds many,

9 many thousand more birds. And they basically lay their eggs

10 which roll on a slanty floor out onto a conveyor belt that

11 brings the eggs into a separate barn where they'll be

12 processed. Their feed is delivered by an auger. They have a

13 water line, and yes, that's basically home for those chickens

14 for the last two years.

15 (Video clip resumed.)

16 MR. PATTON: Let's stop it there for a second.

17 (Video clip paused.)

18 BY MR. PATTON:

19 Q. What's going on now in this video?

20 A. This is depopulation, which is the procedure we would do

21 when, as I mentioned, chickens would reach a certain age where

22 their egg production would decline. Our crew would go through

23 the barn and basically physically remove each of the chickens

24 from their cage by grabbing at a leg or a wing or whatever

25 body part people would be able to get their hands on and then

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1 (Video clip ends.)

2 BY MR. PATTON:

3 Q. So just to be clear, you understand that what we just

4 watched was basically an edited down version for about five,

5 five and a half minutes at the Court's suggestion. But you

6 took -- did you take much more and longer footage than just

7 this at Rose Acre?

8 A. I did.

9 Q. Does this footage fairly or accurately represent what you

10 saw at the Rose Acre facilities?

11 A. Yes, this is a fair and accurate representation of what

12 life is like for a hen at Rose Acre.

13 Q. If someone had walked off -- walked in off the street and

14 spent a couple of weeks at Rose Acre, would they have seen the

15 same thing or something different?

16 A. They would have seen any one of those scenes within the

17 first minute of walking in the barn, yes.

18 Q. Now, let's shift to the photographs you took. You also

19 took some photographs --

20 A. I did.

21 Q. -- correct?

22 MR. PATTON: Your Honor, may I approach the witness?

23 THE COURT: Yes, you may.

24 BY MR. PATTON:

25 Q. Take a moment to review those and I'll ask you a couple

1 of questions. There's five photographs here.
 2 A. That's right.
 3 Q. And did you take each of these photos while you were
 4 employed at Rose Acre Farms?
 5 A. I did.
 6 MR. PATTON: Your Honor, at this time, we offer
 7 Plaintiffs' Exhibit 506.
 8 THE COURT: Okay, is it five photos?
 9 MR. PATTON: 506.
 10 THE COURT: Any objection?
 11 MR. LEVINE: I don't think a foundation has been
 12 laid.
 13 THE COURT: Well, he asked him if he took the
 14 pictures at Rose Acre.
 15 MR. LEVINE: Right, but I don't think he's yet
 16 qualified under 901.
 17 THE COURT: Do you have any further questions you
 18 want to ask?
 19 BY MR. PATTON:
 20 Q. Could you take a moment and look at each photo, please?
 21 A. I do.
 22 Q. Are these photographs accurate -- are these accurate
 23 photos that you took while you were employed at Rose Acre
 24 farm?
 25 A. These are photos that I took while employed at Rose Acre

1 Farms. They are accurate and depict what I saw.
 2 Q. How did you take these photos?
 3 A. These would have been taken with my digital camera.
 4 Q. And how do you know you took these photos?
 5 A. I certainly recognize a few of them very well, because
 6 I've used them and relied on them in the intervening ten years
 7 as part of public talks and legal education seminars I've
 8 given on this issue, and I just remember them. I remember
 9 being here and taking these shots and clicking the camera.
 10 Sometimes even when you're working at a facility like this, it
 11 was still, seeing through it a camera screen, it leaves an
 12 impression on you, so yeah, I recall it.
 13 MR. PATTON: Your Honor, at this time we offer
 14 Plaintiffs' Exhibit 506.
 15 THE COURT: They are admitted.
 16 Do you want to call them 506-A, B, C, D and E?
 17 MR. PATTON: So, yes, we have 506-1, 2, 3, on the
 18 bottom.
 19 THE COURT: So, I'm, you know, I'm a letter person.
 20 You're a number person.
 21 MR. PATTON: You can A, B and C.
 22 THE COURT: Whatever you'd like.
 23 (Exhibits received in evidence.)
 24 BY MR. PATTON:
 25 Q. Why don't we take a look at the first photo, which is

1 506-1.
 2 A. Okay.
 3 Q. What is this photo of?
 4 A. Again, this is another photo of a group of birds that are
 5 kept together in a battery cage. So they'll be many, many
 6 more cages on either side of these birds and above and below
 7 them, but this is the unit, the housing unit these birds will
 8 be living in.
 9 Q. Does this depict the condition of the hens you saw in the
 10 layer house at Rose Acre Farms?
 11 A. Yes. From the condition of these hens, I would guess
 12 that they're a little bit on the older side. And by "older" I
 13 mean over a year old. You can see by the feather loss and the
 14 scabbing and also by the relatively small number of birds in
 15 the cage. Usually there are a few more but at this point one
 16 or two may have been trampled to death and removed by a
 17 worker.
 18 MR. PATTON: I think I'm going to publish -- oh, I
 19 haven't published these yet, Your Honor. May I publish them
 20 to the jury?
 21 THE COURT: Yes, you may.
 22 BY MR. PATTON:
 23 Q. So just to back up for a minute. These are -- this is a
 24 photo that you took of hens within a cage at the Rose Acre
 25 facility?

1 A. That's right.
 2 Q. And you were explaining -- I mean, I think I count one,
 3 two, three, four, five, six hens in this cage.
 4 A. That's right.
 5 Q. And you estimated that these are what age?
 6 A. All I could say is that these hens are likely over a year
 7 old. Usually they're killed before they're about two, and
 8 it's within that year that they start to show lots of feather
 9 loss and other -- basically looking in this haggard condition.
 10 You can see the lightness and the way that their -- I forget,
 11 their combs are sort of wilting. These are older and unwell
 12 hens. But other than that, I mean, this is a fairly standard
 13 depiction of what it looks like when you're looking at one of
 14 these battery cages.
 15 Q. Let's turn to page -- to photo 2.
 16 MR. PATTON: And may I publish that to the jury,
 17 Your Honor?
 18 THE COURT: Yes.
 19 BY MR. PATTON:
 20 Q. What are we looking at here, Mr. Carlson?
 21 A. Again, this is a battery cage. It's a group of hens in a
 22 battery cage.
 23 Q. And typically -- is that an egg on the top of the photo?
 24 A. That is, yes.
 25 Q. Typically the eggs would collect under the hens and roll

1 out to the --

2 A. Exactly.

3 Q. Let's look at the third photo, PX-506-3.

4 MR. PATTON: And may we publish that also to the

5 jury, Your Honor?

6 THE COURT: Yes, you may.

7 BY MR. PATTON:

8 Q. What is this a photo of?

9 A. This is another photo of hens in the battery cage. You

10 can see above them is -- would be the bottom of the cage above

11 them where the eggs from the hens above them have rolled out

12 and collected above them.

13 Q. What is all that stuff in front of the eggs?

14 A. That's dander and detritus and debris. It's essentially

15 just the dust that comes off the chickens. It collects. And

16 that was pretty pervasive around the entire facility.

17 Q. Do those cages look new or old to you?

18 A. They look old and rusted to me and bent.

19 Q. Let's go to the fourth photo.

20 MR. PATTON: May I publish that, Your Honor?

21 THE COURT: Yes.

22 BY MR. PATTON:

23 Q. So this is -- this photo is -- kind of shows a few more

24 hens and eggs in it. Can you describe what we're seeing here?

25 A. Um, so now you're seeing -- what I did is I climbed up on

1 the opposite facility and took a picture looking down of the

2 battery cage row. You can see how they're sort of stacked and

3 staggered and sort of in a pyramid kind of shape. And so,

4 yeah, you're looking down at the layers of battery cages.

5 Q. So I see a lot of eggs in this photo. Although these

6 were older hens, were they still productive hens?

7 A. Yes. I mean, even at the time they're euthanized they're

8 still producing eggs, just not at the same frequency as

9 before.

10 Q. Do you have an understanding as to why they were

11 euthanized while they were still productive?

12 A. Because my understanding is that when their production

13 levels go down, I mean, the cages are more expensive than the

14 chickens, so it makes more economic sense to kill or euthanize

15 the hens and replace them with younger and more productive

16 hens, so you get more eggs per cage.

17 Q. Let's turn to the final photograph, which is PX-506-5.

18 MR. PATTON: May I publish that to the jury, Your

19 Honor?

20 THE COURT: Yes, you may.

21 BY MR. PATTON:

22 Q. What do we see here?

23 A. Um, so this is a very common sight when I was working at

24 Rose Acre, which we would refer to them as mummies. It's

25 birds who either are trampled to death or got a wing or neck

1 or leg stuck in the cage wire or weren't able to access food

2 or water. For whatever reason, it wasn't uncommon for

3 chickens to die during their two-year residency in these

4 cages. And by the time we would find them, because these

5 cages or these barns were so enormous, they'd usually be

6 pretty deep in the composition phase. So we called them

7 mummies, or one of my coworkers called them carpets, because

8 they would sort of decompose and stick to the cage floor and

9 the other chickens very often would sort of climb on top of

10 them to search for relief from standing on the cage wires all

11 day.

12 Q. Was it a coworker employed by Rose Acre that used that

13 term "carpet"?

14 A. The "carpets" phrase I heard at a different facility.

15 That wasn't Rose Acre.

16 Q. Did you stage any of these photographs?

17 A. No.

18 Q. Did you plant any dead hens or disfigure them --

19 A. No.

20 Q. -- for these videos and photographs?

21 A. No.

22 Q. I'd like to show you an exhibit that was shown to the

23 jury in opening statement by Rose Acres -- Rose

24 Acre's counsel.

25 If we could put that up.

1 Did the henhouses at Rose Acre Farms look like that?

2 A. In most respects, no, absolutely not.

3 Q. Did they look more like this photo?

4 MR. PATTON: Oh, may I publish this to the jury,

5 Your Honor?

6 THE COURT: The one from the opening statement?

7 MR. PATTON: Yes.

8 THE COURT: Yes.

9 MR. PATTON: I apologize if I missed that again.

10 BY MR. PATTON:

11 Q. So this is a demonstrative or an exhibit that was used by

12 Rose Acre's counsel in opening and presented to the jury. Did

13 the henhouses you were in look like that?

14 A. No. They didn't for several reasons.

15 Q. In what ways?

16 A. Well, I mean, you can see that there's none of the debris

17 and dust that's collected everywhere. The cages appear to be

18 brand new, they're not bent or rusted. The chickens appear to

19 be in very good condition. White with all their plumage and

20 red combs and are standing very high for the most part.

21 Everything about this just appears to be clean and bright and

22 sanitized in a way that Rose Acre never was. I mean, even

23 after we would come through and clean the barn, we would not

24 clean it to this level, or even close to it.

25 Q. Let's just briefly go back to the first photograph that

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1 you took. Is that more like what you saw when you were at
 2 Rose Acre Farms?
 3 A. Yes. So the image on the right would be a typical view
 4 if you looked at any battery cage that was random,
 5 essentially, the one on the left. Maybe some of the younger
 6 pullets would have that level of whiteness and feathers
 7 intact, but other than that, nothing in that image would look
 8 like anything you would expect to see coming to work.
 9 Q. Did you consider bringing any concerns about the
 10 treatment or condition of these hens to Rose Acre management?
 11 A. Did I consider it? I did.
 12 Q. And what did you do?
 13 A. In that instance, I don't believe I brought anything to
 14 management, because my concerns were with the basic business
 15 model or standard operating procedure of the facility, so
 16 there was -- you know, we signed a form when I was hired
 17 saying that we should report animal cruelty concerns, but the
 18 type of animal cruelty I saw wasn't people punching and
 19 kicking chickens. It was overconfining them and neglecting
 20 ones who were dead and dying, and I was very much told from
 21 the beginning of my job that was the nature of the job.
 22 I was also repeatedly told because my position
 23 moved -- involved moving birds a lot that sometimes you'll
 24 break their legs, sometimes a wing will come off in your hands
 25 and no big deal, don't worry about that, just keep moving

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1 Animals; isn't that correct?
 2 A. That's right.
 3 Q. Okay, and that's also an animal rights organization?
 4 A. We called ourselves an animal protection organization,
 5 but, yes.
 6 Q. When you went to work for Mercy for Animals, you did not
 7 receive any animal husbandry training; isn't that correct?
 8 A. That's correct.
 9 Q. Okay. And you did not receive any animal welfare
 10 training from Humane Society of the United States either;
 11 isn't that correct?
 12 A. That's correct.
 13 Q. And you did not receive any training in how one deals --
 14 handles and deals with livestock on a farm; isn't that
 15 correct?
 16 A. From the Humane Society and Mercy for Animals?
 17 Q. Yes.
 18 A. No.
 19 Q. Now, you have no degrees in veterinary medicine; isn't
 20 that correct?
 21 A. No.
 22 Q. You've never taken any coursework in veterinary medicine;
 23 is that correct?
 24 A. No.
 25 Q. That's correct?

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1 quick.
 2 Q. So you didn't think it would make any sense to say
 3 anything?
 4 A. I felt in that case that if I was to say anything about
 5 animal welfare, it would be perceived as me not fitting into
 6 the culture.
 7 MR. PATTON: Mr. Carlson, I want to thank you. I
 8 have no further questions at this time.
 9 THE COURT: Any cross-examination?
 10 CROSS-EXAMINATION
 11 BY MR. LEVINE:
 12 Q. Good afternoon, Mr. Carlson.
 13 A. Good afternoon.
 14 Q. My name's Jay Levine. I represent Rose Acre Farms. You
 15 talked about the Humane Society. Is that the Humane Society
 16 of the United States?
 17 A. That's right.
 18 Q. That's different from the local Humane Society that runs
 19 animal shelters; is that correct?
 20 A. It's different than a local society that runs animal
 21 shelters, that's right.
 22 Q. It's a national animal rights organization much like
 23 PETA; isn't that correct?
 24 A. I wouldn't describe it that way.
 25 Q. Now, when you -- you worked for a time for Mercy for

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1 A. Um-hum.
 2 Q. You have no degree in animal science; isn't that correct?
 3 A. That is correct.
 4 Q. And you've never done any coursework in animal science;
 5 isn't that correct?
 6 A. That is correct.
 7 Q. And you talked about your application for employment with
 8 Rose Acre Farms. You admitted that you were untruthful on
 9 that application; isn't that correct?
 10 A. In that one document, yes.
 11 Q. Okay. Where you represented yourself that you were not
 12 from an animal protection group and yet you were; isn't that
 13 correct?
 14 A. That's correct.
 15 Q. Okay. And you also said that you had signed a policy to
 16 report animal cruelty if you saw it; isn't that correct?
 17 A. That's correct.
 18 Q. And that in fact you did not report any -- anything you
 19 saw pursuant to that policy; isn't that correct?
 20 A. That's correct.
 21 Q. In fact, isn't it true that you didn't see -- there was
 22 nothing to report; isn't that correct?
 23 A. There were things that I thought constituted animal
 24 cruelty, but that wouldn't have made sense to report in that
 25 context.

1 Q. Again, my question is that you didn't see anything to
 2 report; isn't that correct?
 3 A. Essentially, yes.
 4 MR. LEVINE: Thank you very much, Mr. Carlson.
 5 THE COURT: Any other cross-examination?
 6 MS. SUMNER: No, Your Honor.
 7 MS. LEVINE: No, Your Honor.
 8 THE COURT: Any redirect?
 9 MR. PATTON: Briefly, Your Honor.
 10 REDIRECT EXAMINATION
 11 BY MR. PATTON:
 12 Q. Did you ever do any undercover work for PETA?
 13 A. No.
 14 Q. You got asked the question about PETA and the Humane
 15 Society. Are they different in your mind?
 16 A. Significantly.
 17 Q. What's that again?
 18 A. Significantly different.
 19 Q. In what way?
 20 A. I've never been interested in working for PETA because I
 21 feel they're a little bit brash and a little bit
 22 uncompromising in their tactics, a little bit far out there.
 23 Humane Society is much more of a big tent mainstream
 24 organization that has room for vegetarians and meat eater and
 25 basically anyone who believes animals should be treated a

1 little bit better. They do not run pet shelters, but they
 2 provide services to them, they do a lot of wildlife advocacy,
 3 they focus on sort of common sense reforms. So I think
 4 they're much more strategic, much more effective, and I guess
 5 just more accessible than PETA is.
 6 Q. Did you ever firebomb a truck?
 7 A. I've never done that.
 8 Q. Did you ever deface or vandalize a farm?
 9 A. No, never done that.
 10 Q. Ever do violent acts when you were an undercover
 11 investigator?
 12 A. No. I just took pictures.
 13 Q. I wanted to ask you a question about the job application.
 14 Under the application, if someone needed a job and they worked
 15 for the ASPCA and they circled no -- or they were a member of
 16 the ASPCA, if they circled no, would they have been
 17 falsifying?
 18 A. Yes. They would have been lying.
 19 MR. PATTON: Thank you. Your Honor, I have no
 20 further questions.
 21 THE COURT: Any recross?
 22 MR. LEVINE: No.
 23 THE COURT: Does that go for everybody?
 24 MR. HARRIS: No, Your Honor.
 25 THE COURT: Okay, you may step down.